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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,269	07/08/2003	James Francis Sehl	JSEHL - 002	8198
7590	08/03/2004		EXAMINER	
Carl Rowold 43 Niagara Pier Erie, PA 16507-2314			LEE, JONG SUK	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 08/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/615,269

Applicant(s)

SEHL, JAMES FRANCIS

Examiner

Jong-Suk (James) Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 1-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restriction*

1. Applicant's election without traverse of Species d (Fig. 11) directed to claims 20-22 in the reply filed on July 1, 2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniels (US 2,455,408) in view of Lee (US 5,681,272).

Preamble limitation, "for supporting a load above the level of a body of water" in lines 1-2 is intended use and patentable weight is not given to the preamble.

Daniels discloses a portable projection table comprising of: a deck/top (28) presenting a generally planar upper surface for the load; an anchor device (10) and when deployed/installed and connected to the deck holds the deck against horizontal movement; the deck having at least one connector (27, 32) for detachably securing the deck to the anchor device for vertical movement of the deck relative to the anchor (see Figs. 1-5; col.1, lines 42-55; col.2, lines 1-30).

However, Daniel fails to disclose or fairly suggest a pack having a carrying attachment on the pack for carrying the deck/top. Lee discloses a portable traction device comprising of: a pack/bag (20) having an opening at its upper end to receive the deck/top and a carrying attachment/a pair of shoulder straps (74) on the bag and a handle (76) on the bag (20) (see Figs.1-17; col.2, lines 46-67; col.3, lines 1-46).

Therefore, in view of Lee, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to add the pack/bag to the device in order to carry the projector table in handy to the desired location.

With respect to the density of the deck/top, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to use a conventional polymerized material being lighter than a water density in order to enhance the portability by reducing the weight of the device.

#### ***Obviousness-Type Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686

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F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 20-22 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 17-18 of U.S. Patent No. 6,648,554 in view of Lee (US 5,681,272).

The '272 Patent discloses a portable floatation platform having a deck, an anchor device and connectors as recited in claim 20 except a pack assembly for receiving the portable deck.

Lee discloses a portable traction device comprising of: a pack/bag (20) having an opening at its upper end to receive the deck/top and a carrying attachment/a pair of shoulder straps (74) on the bag and a handle (76) on the bag (20) (see Figs. 1-17; col.2, lines 46-67; col.3, lines 1-46).

Therefore, in view of Lee, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to add the deck to the platform of the '272 Patent in order to carry the projector table in handy to the desired location.

6. The obviousness-Type double patenting rejection is based on a judicially created doctrine grounded in public policy is primarily intended to prevent the prolongation of the patent term by

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prohibiting claims in a second patent not patentably distinct from claims in a first patent. *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(b) would overcome an actual or provisional rejection on this ground provided the conflicting application of patent is shown to be commonly owned with this application. See 37 C.F.R. 1.130 (b).

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Other references cited disclose a blow molded dock float, a portable boat dock and a channel connector for floating dock.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jong-Suk (James) Lee whose telephone number is (703) 308-6777. The examiner can normally be reached on 6:30 am to 3:00 pm, Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford, can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

J. Lee /jjl  
July 30, 2004



**Jong-Suk (James) Lee**  
**Primary Examiner**  
**Art Unit 3673**